



COMMONWEALTH OF MASSACHUSETTS
Board of Registration
of
Hazardous Waste Site Cleanup
Professionals

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PROFESSIONAL CONDUCT COMMITTEE

Minutes of Meeting on July 17, 2008

Approved on August 21, 2008

Prepared by: Lynn Peterson Read

Meeting Location: Weston & Sampson
5 Centennial Drive
Peabody, Massachusetts

- 1. Call to Order:** Robert Luhrs called the meeting to order at 11:13 a.m. Also present were Janine Commerford, Deborah Farnsworth, Kirk Franklin, Christophe Henry, Gretchen Latowsky, Paul Mullen, Debbie Phillips, Kelley Race, and Debra Stake. Gail Batchelder was absent. Staff members present were Allan Fierce, Terry Wood, Brian Quinlan, Allen Wyman, Lynn Read, and Ron Viola.
- 2. Announcements:** Mr. Fierce announced that Jack Guswa was officially appointed to the Board to replace Debbie Phillips. He will take the oath of office before the next Board meeting, and will attend that meeting on August 21, 2008. Thus, this July 17 meeting will be the last Board meeting that Ms. Phillips will attend.
- 3. Previous Minutes:** The draft minutes of the meeting held on June 5, 2008, were approved with minor edits.
- 4. Old Business**

A. Status of CRTs

At Mr. Luhrs's request, the chair of each CRT reported on progress made during the last month.

B. Website Subcommittee

Ms. Commerford stated that the subcommittee has not met.

C. Update – Removing Dismissed Complaint From Web Site, and Whether Pending Complaints Should Continue to Be Listed On Web Site.

Mr. Fierce announced that individual LSPs' pages on the Board's website no longer list complaints the Board has dismissed before or after investigation. Those notations were removed pursuant to the Committee's vote on June 5, 2008. The staff is also changing the label "Disciplinary Info" to "Disciplinary History." Ms. Wood reported that each LSP's page on the Board's website already contains the legend, "If you have questions or seek additional information about the Contact, License, or Disciplinary information listed above, please contact the LSP Board at (617) 556-1091 or LSP.Board@state.ma.us," and thus the staff had not drafted a new legend or footnote.

Mr. Fierce then reopened the discussion about whether pending complaints should continue to be listed on the Board's website, which the Board had tabled at its last meeting on June 5. Currently, the Board's website lists each pending complaint on the page for the respondent LSP. Mr. Fierce distributed a sample printout of such a page: the "Action" column of the field now labeled "Disciplinary Info" (sic) states, "Complaint under investigation," and the "Final Action" column states "NO."

Ms. Wood stated that it might appear incongruous not to list complaints that have been dismissed, yet list complaints that are pending but might later be dismissed. Mr. Luhrs responded that the Board has an interest in providing the public with information about respondent LSPs who might pose a danger to the public interest if their work is very substandard. The members present agreed the Board will consider both viewpoints in determining its policy.

Mr. Fierce distributed a page for an LSP who has no complaint pending, to show what would appear on the website if the Board decides not to list the existence of a pending complaint. This page lists only Contact Information, License Information, and under "Disciplinary Info", states "This licensee has not been disciplined by the Board." Board members commented that complaints that do not result in discipline after investigation but are listed on the website might tarnish an LSP's reputation, and may remain on the website for years before being dismissed. Other members cautioned that the Board must not lose sight of protecting the public interest in knowing about LSPs whose work is the subject of complaints that do result in discipline. The Committee reviewed the staff's statistics, finding that of all the complaints that the Board has accepted for investigation, the Board has dismissed 23 percent, and imposed discipline on the remaining 77 percent. This indicated to some members that the existence of a pending complaint is important information to share with the public. The

members present acknowledged the need to weigh the impact of listing the pending complaint on an LSP against the interest of the public and the buyers of LSP services in knowing about it. The members present decided not to change the website. Thus pending complaints will continue to be listed on the website.

Mr. Fierce noted that he had received a complaint on a disciplinary complaint form about an LSP's use of his LSP Seal for other than LSP Opinions. After discussion, the members present instructed the staff to continue classifying such issues as not "disciplinary matters," and to call the LSP and remind him or her that 309 CMR 6.00 requires that the seal be used only for LSP Opinions.

D. Recommendation from Screening Team Regarding Complaint 08C-04. Debra Phillips, Robert Luhrs, and Paul Mullen, and Kelley Race are all recused from Complaint 05C-04 (against the same LSP), so they all left the room before discussion began. The Screening Team (Ms. Commerford, Ms. Batchelder, and Ms. Read) recommended that the Board accept Complaint 08C-04 for investigation. A motion was made and seconded to accept the new allegations for investigation. The motion passed unanimously.

5. New Business

A. New Complaint No. 07C-08

There was no New Business.

6. Future Meetings: The Committee will meet next on August 21, 2008, at the New Bedford Whaling Museum. The Committee will also meet on September 18, 2008, at a location to be determined.

7. Adjournment: The meeting was adjourned at approximately 12:31 p.m.